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CORPORATION, UNAKA COMPANY,  
INC. (erroneously sued as “Unaka  
Company”), and COSTCO WHOLESALE  
CORPORATION (erroneously sued as  
“Costco”)

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

PETER SHAI BEH,

Plaintiff,

vs.

COSTCO, a corporation; MECO  
CORPORATION, a corporation;  
UNAKA COMPANY, a corporation;  
Does 1 to 100, ,

Defendant.

CASE NO.: 8:18-cv-01805-AG-KES

[The Hon. Andrew J. Guilford,  
U.S.D.J.]

**STIPULATION AND PROPOSED  
PROTECTIVE ORDER**

Trial Date: February 4, 2020

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary or private information for which special protection from public disclosure and from use for any purpose other than pursuing this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment

4839-4762-2308.1

**STIPULATION AND PROPOSED PROTECTIVE ORDER**

1 under the applicable legal principles.

2 2. GOOD CAUSE STATEMENT

3 This action is likely to involve trade secrets, customer and pricing lists and  
4 other valuable research, development, commercial, financial, technical and/or  
5 proprietary information for which special protection from public disclosure and  
6 from use for any purpose other than prosecution of this action is warranted. Such  
7 confidential and proprietary materials and information consist of, among other  
8 things, confidential business or financial information, information regarding  
9 confidential business practices, or other confidential research, development, or  
10 commercial information (including information implicating privacy rights of third  
11 parties), information otherwise generally unavailable to the public, or which may be  
12 privileged or otherwise protected from disclosure under state or federal statutes,  
13 court rules, case decisions, or common law. Accordingly, to expedite the flow of  
14 information, to facilitate the prompt resolution of disputes over confidentiality of  
15 discovery materials, to adequately protect information the parties are entitled to keep  
16 confidential, to ensure that the parties are permitted reasonable necessary uses of  
17 such material in preparation for and in the conduct of trial, to address their handling  
18 at the end of the litigation, and serve the ends of justice, a protective order for such  
19 information is justified in this matter. It is the intent of the parties that information  
20 will not be designated as confidential for tactical reasons and that nothing be so  
21 designated without a good faith belief that it has been maintained in a confidential,  
22 non-public manner, and there is good cause why it should not be part of the public  
23 record of this case.

24 3. ACKNOWLEDGEMENT OF UNDER SEAL FILING PROCEDURE

25 The parties further acknowledge, as set forth in Section 14.3, below, that  
26 this Stipulated Protective Order does not entitle them to file confidential information  
27 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed

1 and the standards that will be applied when a party seeks permission from the court  
2 to file material under seal. There is a strong presumption that the public has a right  
3 of access to judicial proceedings and records in civil cases. In connection with non-  
4 dispositive motions, good cause must be shown to support a filing under seal. See  
5 Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1176 (9th Cir. 2006),  
6 Phillips v. Gen. Motors Corp., 307 F.3d 1206, 1210-11 (9th Cir. 2002), Makar-  
7 Welbon v. Sony Electronics, Inc., 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even  
8 stipulated protective orders require good cause showing), and a specific showing of  
9 good cause or compelling reasons with proper evidentiary support and legal  
10 justification, must be made with respect to Protected Material that a party seeks to  
11 file under seal. The parties' mere designation of Disclosure or Discovery Material as  
12 CONFIDENTIAL does not— without the submission of competent evidence by  
13 declaration, establishing that the material sought to be filed under seal qualifies as  
14 confidential, privileged, or otherwise protectable—constitute good cause.

15 Further, if a party requests sealing related to a dispositive motion or trial,  
16 then compelling reasons, not only good cause, for the sealing must be shown, and  
17 the relief sought shall be narrowly tailored to serve the specific interest to be  
18 protected. See Pintos v. Pacific Creditors Ass'n., 605 F.3d 665, 677-79 (9th Cir.  
19 2010). For each item or type of information, document, or thing sought to be filed or  
20 introduced under seal, the party seeking protection must articulate compelling  
21 reasons, supported by specific facts and legal justification, for the requested sealing  
22 order. Again, competent evidence supporting the application to file documents under  
23 seal must be provided by declaration. Any document that is not confidential,  
24 privileged, or otherwise protectable in its entirety will not be filed under seal if the  
25 confidential portions can be redacted. If documents can be redacted, then a redacted  
26 version for public viewing, omitting only the confidential, privileged, or otherwise  
27 protectable portions of the document, shall be filed. Any application that seeks to

1 file documents under seal in their entirety should include an explanation of why  
2 redaction is not feasible.

3 4. DEFINITIONS

4 4.1 Action: this pending federal lawsuit.

5 4.2 Challenging Party: a Party or Non-Party that challenges the designation  
6 of information or items under this Order.

7 4.3 “CONFIDENTIAL” Information or Items: information (regardless of  
8 how it is generated, stored or maintained) or tangible things that qualify for  
9 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
10 the Good Cause Statement.

11 4.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
12 their support staff).

13 4.5 Designating Party: a Party or Non-Party that designates information or  
14 items that it produces in disclosures or in responses to discovery as  
15 “CONFIDENTIAL.”

16 4.6 Disclosure or Discovery Material: all items or information, regardless  
17 of the medium or manner in which it is generated, stored, or maintained (including,  
18 among other things, testimony, transcripts, and tangible things), that are produced or  
19 generated in disclosures or responses to discovery.

20 4.7 Expert: a person with specialized knowledge or experience in a matter  
21 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
22 an expert witness or as a consultant in this Action.

23 4.8 House Counsel: attorneys who are employees of a party to this Action.  
24 House Counsel does not include Outside Counsel of Record or any other outside  
25 counsel.

26 4.9 Non-Party: any natural person, partnership, corporation, association or  
27 other legal entity not named as a Party to this action.

1 4.10 Outside Counsel of Record: attorneys who are not employees of a party  
2 to this Action but are retained to represent a party to this Action and have appeared  
3 in this Action on behalf of that party or are affiliated with a law firm that has  
4 appeared on behalf of that party, and includes support staff.

5 4.11 Party: any party to this Action, including all of its officers, directors,  
6 employees, consultants, retained experts, and Outside Counsel of Record (and their  
7 support staffs).

8 4.12 Producing Party: a Party or Non-Party that produces Disclosure or  
9 Discovery Material in this Action.

10 4.13 Professional Vendors: persons or entities that provide litigation support  
11 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
12 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
13 and their employees and subcontractors.

14 4.14 Protected Material: any Disclosure or Discovery Material that is  
15 designated as "CONFIDENTIAL."

16 4.15 Receiving Party: a Party that receives Disclosure or Discovery Material  
17 from a Producing Party.

18 5. SCOPE

19 The protections conferred by this Stipulation and Order cover not only  
20 Protected Material (as defined above), but also (1) any information copied or  
21 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
22 compilations of Protected Material; and (3) any testimony, conversations, or  
23 presentations by Parties or their Counsel that might reveal Protected Material.

24 Any use of Protected Material at trial shall be governed by the orders of the  
25 trial judge and other applicable authorities. This Order does not govern the use of  
26 Protected Material at trial.

27 ///

1           6.     DURATION

2           Once a case proceeds to trial, information that was designated as  
3 CONFIDENTIAL or maintained pursuant to this protective order used or introduced  
4 as an exhibit at trial becomes public and will be presumptively available to all  
5 members of the public, including the press, unless compelling reasons supported by  
6 specific factual findings to proceed otherwise are made to the trial judge in advance  
7 of the trial. See Kamakana, 447 F.3d at 1180-81 (distinguishing “good cause”  
8 showing for sealing documents produced in discovery from “compelling reasons”  
9 standard when merits-related documents are part of court record). Accordingly, the  
10 terms of this protective order do not extend beyond the commencement of the trial.

11           7.     DESIGNATING PROTECTED MATERIAL

12           7.1    Exercise of Restraint and Care in Designating Material for Protection.

13           Each Party or Non-Party that designates information or items for protection  
14 under this Order must take care to limit any such designation to specific material  
15 that qualifies under the appropriate standards. The Designating Party must designate  
16 for protection only those parts of material, documents, items or oral or written  
17 communications that qualify so that other portions of the material, documents, items  
18 or communications for which protection is not warranted are not swept unjustifiably  
19 within the ambit of this Order.

20           Mass, indiscriminate or routinized designations are prohibited. Designations  
21 that are shown to be clearly unjustified or that have been made for an improper  
22 purpose (e.g., to unnecessarily encumber the case development process or to impose  
23 unnecessary expenses and burdens on other parties) may expose the Designating  
24 Party to sanctions.

25           If it comes to a Designating Party’s attention that information or items that it  
26 designated for protection do not qualify for protection, that Designating Party must  
27 promptly notify all other Parties that it is withdrawing the inapplicable designation.

1        7.2    Manner and Timing of Designations. Except as otherwise provided in  
2 this Order, or as otherwise stipulated or ordered, Disclosure of Discovery Material  
3 that qualifies for protection under this Order must be clearly so designated before  
4 the material is disclosed or produced.

5        Designation in conformity with this Order requires:

6                (a) for information in documentary form (e.g., paper or electronic  
7 documents, but excluding transcripts of depositions or other pretrial or trial  
8 proceedings), that the Producing Party affix at a minimum, the legend  
9 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that  
10 contains protected material. If only a portion of the material on a page qualifies for  
11 protection, the Producing Party also must clearly identify the protected portion(s)  
12 (e.g., by making appropriate markings in the margins).

13              A Party or Non-Party that makes original documents available for inspection  
14 need not designate them for protection until after the inspecting Party has indicated  
15 which documents it would like copied and produced. During the inspection and  
16 before the designation, all of the material made available for inspection shall be  
17 deemed “CONFIDENTIAL.” After the inspecting Party has identified the  
18 documents it wants copied and produced, the Producing Party must determine which  
19 documents, or portions thereof, qualify for protection under this Order. Then, before  
20 producing the specified documents, the Producing Party must affix the  
21 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a  
22 portion of the material on a page qualifies for protection, the Producing Party also  
23 must clearly identify the protected portion(s) (e.g., by making appropriate markings  
24 in the margins).

25              (b) for testimony given in depositions that the Designating Party  
26 identifies the Disclosure or Discovery Material on the record, before the close of the  
27 deposition all protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend "CONFIDENTIAL." If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

7.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

## 8. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8.1. Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

8.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37-1 et seq.

8.3 Joint Stipulation. Any challenge submitted to the Court shall be via a joint stipulation pursuant to Local Rule 37-2.

8.4 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the

challenge.

9. ACCESS TO AND USE OF PROTECTED MATERIAL

9.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 15 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

9.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “CONFIDENTIAL” only to:

(a) the Receiving Party’s Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional

Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the form attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

(i) any mediators or settlement officers and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

10. PROTECTED MATERIAL SUBPOENAED OR ORDERED  
PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be

1       pursued by the Designating Party whose Protected Material may be affected.

2       If the Designating Party timely seeks a protective order, the Party served with  
3 the subpoena or court order shall not produce any information designated in this  
4 action as “CONFIDENTIAL” before a determination by the court from which the  
5 subpoena or order issued, unless the Party has obtained the Designating Party’s  
6 permission. The Designating Party shall bear the burden and expense of seeking  
7 protection in that court of its confidential material and nothing in these provisions  
8 should be construed as authorizing or encouraging a Receiving Party in this Action  
9 to disobey a lawful directive from another court.

10       11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO  
11       BE PRODUCED IN THIS LITIGATION

12               (a) The terms of this Order are applicable to information produced by a  
13 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information  
14 produced by Non-Parties in connection with this litigation is protected by the  
15 remedies and relief provided by this Order. Nothing in these provisions should be  
16 construed as prohibiting a Non-Party from seeking additional protections.

17               (b) In the event that a Party is required, by a valid discovery request, to  
18 produce a Non-Party’s confidential information in its possession, and the Party is  
19 subject to an agreement with the Non-Party not to produce the Non-Party’s  
20 confidential information, then the Party shall:

21                       (1) promptly notify in writing the Requesting Party and the Non-Party  
22 that some or all of the information requested is subject to a confidentiality  
23 agreement with a Non-Party;

24                       (2) promptly provide the Non-Party with a copy of the Stipulated  
25 Protective Order in this Action, the relevant discovery request(s), and a reasonably  
26 specific description of the information requested; and

27                       (3) make the information requested available for inspection by the Non-

1 Party, if requested.

2 (c) If the Non-Party fails to seek a protective order from this court  
3 within 14 days of receiving the notice and accompanying information, the Receiving  
4 Party may produce the Non-Party's confidential information responsive to the  
5 discovery request. If the Non-Party timely seeks a protective order, the Receiving  
6 Party shall not produce any information in its possession or control that is subject to  
7 the confidentiality agreement with the Non-Party before a determination by the  
8 court. Absent a court order to the contrary, the Non-Party shall bear the burden and  
9 expense of seeking protection in this court of its Protected Material.

10 12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

11 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
12 Protected Material to any person or in any circumstance not authorized under this  
13 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
14 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts  
15 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or  
16 persons to whom unauthorized disclosures were made of all the terms of this Order,  
17 and (d) request such person or persons to execute the "Acknowledgment and  
18 Agreement to Be Bound" attached hereto as Exhibit A.

19 13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
20 PROTECTED MATERIAL

21 When a Producing Party gives notice to Receiving Parties that certain  
22 inadvertently produced material is subject to a claim of privilege or other protection,  
23 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
24 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
25 may be established in an e-discovery order that provides for production without  
26 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar  
27 as the parties reach an agreement on the effect of disclosure of a communication or

1 information covered by the attorney-client privilege or work product protection, the  
2 parties may incorporate their agreement in the stipulated protective order submitted  
3 to the court.

4 14. MISCELLANEOUS

5 14.1 Right to Further Relief. Nothing in this Order abridges the right of any  
6 person to seek its modification by the Court in the future.

7 14.2 Right to Assert Other Objections. By stipulating to the entry of this  
8 Protective Order, no Party waives any right it otherwise would have to object to  
9 disclosing or producing any information or item on any ground not addressed in this  
10 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
11 ground to use in evidence of any of the material covered by this Protective Order.

12 14.3 Filing Protected Material. A Party that seeks to file under seal any  
13 Protected Material must comply with Local Civil Rule 79-5. Protected Material may  
14 only be filed under seal pursuant to a court order authorizing the sealing of the  
15 specific Protected Material. If a Party's request to file Protected Material under seal  
16 is denied by the court, then the Receiving Party may file the information in the  
17 public record unless otherwise instructed by the court.

18 15. FINAL DISPOSITION

19 After the final disposition of this Action, as defined in paragraph 6, within 60  
20 days of a written request by the Designating Party, each Receiving Party must return  
21 all Protected Material to the Producing Party or destroy such material. As used in  
22 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
23 summaries, and any other format reproducing or capturing any of the Protected  
24 Material. Whether the Protected Material is returned or destroyed, the Receiving  
25 Party must submit a written certification to the Producing Party (and, if not the same  
26 person or entity, to the Designating Party) by the 60-day deadline that (1) identifies  
27 (by category, where appropriate) all the Protected Material that was returned or

1 destroyed and (2) affirms that the Receiving Party has not retained any copies,  
2 abstracts, compilations, summaries or any other format reproducing or capturing any  
3 of the Protected Material. Notwithstanding this provision, Counsel are entitled to  
4 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing  
5 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
6 reports, attorney work product, and consultant and expert work product, even if such  
7 materials contain Protected Material. Any such archival copies that contain or  
8 constitute Protected Material remain subject to this Protective Order as set forth in  
9 Section 6 (DURATION).

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

By: /s/  
PETER SHAIBEH  
Plaintiff, In Pro Per

LEWIS BRISBOIS BISGAARD &  
SMITH LLP

By: /s/

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Jocelyn A. Julian  
Anthony E. Sonnett  
Attorneys for Defendants MECO  
CORPORATION, UNAKA COMPANY,  
INC. (erroneously sued as “Unaka  
Company”), and COSTCO WHOLESALE  
CORPORATION (erroneously sued as  
“Costco”)

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

*Karen E. Scott*  
The Hon. Karen E. Scott  
United States Magistrate Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3  
4 I, \_\_\_\_\_ [full name], of \_\_\_\_\_  
5 [full address], declare under penalty of perjury that I have read in its entirety and  
6 understand the Stipulated Protective Order that was issued by the United States  
7 District Court for the Central District of California on \_\_\_\_\_ in the case of  
8 *Peter Shaibeh v. Costco, et al.* Case No: 8:18-cv-01805-AG-KES. I agree to comply  
9 with and to be bound by all the terms of this Stipulated Protective Order and I  
10 understand and acknowledge that failure to so comply could expose me to sanctions  
11 and punishment in the nature of contempt. I solemnly promise that I will not  
12 disclose in any manner any information or item that is subject to this Stipulated  
13 Protective Order to any person or entity except in strict compliance with the  
14 provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court  
16 for the Central District of California for enforcing the terms of this Stipulated  
17 Protective Order, even if such enforcement proceedings occur after termination of  
18 this action.

19 I hereby appoint \_\_\_\_\_ [full name] of  
20 \_\_\_\_\_ [full address and telephone  
21 number] as my California agent for service of process in connection with this action  
22 or any proceedings related to enforcement of this Stipulated Protective Order.

23 Date: \_\_\_\_\_

24 City and State where sworn and signed: \_\_\_\_\_

25 Printed name: \_\_\_\_\_

26  
27 Signature: \_\_\_\_\_